

LOUISIANA REVISED STATUTES
TITLE 37. PROFESSIONS AND OCCUPATIONS
CHAPTER 21. MISCELLANEOUS OCCUPATIONS
PART I. PAWNBROKERS

(Current through 2006 Louisiana Regular Session)

§ 1781. Short Title

This Part shall be known and may be cited as the "Louisiana Pawnshop Act".

§ 1782. Definitions

As used in this Part:

- (1) "Applicable liabilities" include trade or other accounts payable; accrued sales, income, or other taxes; accrued expenses; and notes or other payables that are unsecured or secured in whole or part by current assets.
- (2) "Commissioner" means the commissioner of the Office of Financial Institutions within the office of the governor.
- (3) "Current Assets" include an investment made in cash, bank deposits, merchandise inventory and loans due from customers, excluding the pawn service charge. The term does not include an investment made in any of the following:
 - (a) Fixed assets of real estate, furniture, fixtures, or equipment.
 - (b) Stocks, bonds or other securities.
 - (c) Prepaid expenses or other general intangibles.
- (4) "Jewelry" means things consisting of precious stones and/or precious metals worn as adornment or apparel.
- (5) "Law enforcement officer" means:
 - (a) The law enforcement officers of the office of state police of the Department of Public Safety and Corrections.
 - (b) The superintendent of the police of the city or town in which the pawnbroker maintains a pawnshop or his duly authorized designee having been so designated by title or position as one regularly responsible for the inspection and regulation of pawnshops or one designated in writing to enforce the provisions of this Part.
 - (c) The sheriff of the parish in which the pawnbroker maintains a pawnshop or his duly authorized designee having been so designated by title or position as one regularly responsible for the inspection and regulation of pawnshops or one designated in writing to enforce the provisions of this Part.
- (6) "License" means the certificate of authority to operate a pawnshop as issued by the commissioner.
- (7) "Maturity date" means the last date subsequent to the pawn transaction upon which the pledgor can redeem a pledged thing.
- (8) "Month" means that period of time from one date in a calendar month to the corresponding date in the subsequent calendar month. If the subsequent calendar month has no corresponding date, the last day of the subsequent month shall be considered the corresponding date. In the event any period consists of more than one month and the last month has no corresponding date, the last day of the last month shall be considered the corresponding date.
- (9) "Net assets" means the book value of current assets less applicable liabilities.
- (10) "Pawnbroker" means a person who lends money on a deposit or pledge or who takes other things into possession as security for money advanced or who makes a public display at his place of business of the sign generally used by pawnbrokers to denote his business, namely, three gilt or yellow balls, or who publicly exhibits a sign that money is to be loaned on things on deposit.
- (11) "Pawnshop" means the location at which, or premises upon which, a pawnbroker regularly conducts business.
- (12) "Pawn transaction" means the lending of money on a deposit or pledge or taking other things into possession as security for money advanced. Any arrangement whereby a seller either reserves the right to redeem or repurchase a thing shall be considered a pawn transaction and the purchaser shall be subject to the provisions of this Part.
- (13) "Person" means natural and juridical persons.
- (14) "Personally identifiable information" with respect to each pawn transaction shall consist of the following:
 - (a) The pledgor's name and address.
 - (b) The pledgor's sex, race, and approximate height.
 - (c) The pledgor's date of birth.
 - (d) The distinctive number from the pledgor's Louisiana driver's license, driver's license from another state, international driver's license, passport, or identification by a government agency or the United States Postal Service.
- ~~(14)~~ (15) "Things" means any property, movable and immovable, corporeal and incorporeal, and rights therein.
- (16) "Transactional information" with respect to each pawn transaction shall consist of the following:
 - (a) A clear and accurate description of the pledged things, including model and serial numbers if indicated on things.
 - (b) The date of the original pawn transaction.

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(c) The maturity date of the original pawn transaction.

(d) The date and amount of each payment made on a pawn transaction, including any extensions made.

§ 1783. Nature of the pawn transaction

The pawn transaction constitutes a service and vests the pawnbroker with the right of causing the debt to be satisfied by privilege and in preference to all other creditors, secured and unsecured, perfected or not. The pawnbroker can be compelled to return the security only when he has received the whole payment of the principal as well as the interest, service charges, and costs. A pawn transaction shall be considered a loan.

§ 1784. Waiver, agreement to forego rights; prohibited

A pawn customer may not waive or agree to forego rights or benefits under this Part except that a claim, if disputed in good faith, may be settled by compromise or agreement.

§ 1785. Licensing of pawnbrokers; limit to location

A. No person shall do business as a pawnbroker without having first obtained the license required by R.S. 47:341 et seq. and as further required by this Part. A separate license is required for each pawnshop. The commissioner shall issue one or more licenses to a person if that person complies with the licensing requirements of this Part for each license. The commissioner shall transmit to the pawnbroker one copy of such license. Each license shall remain in full force and effect until surrendered, suspended, revoked, or expired.

B. A pawnshop license shall constitute a license to operate both as a pawnshop and as a new and secondhand dealer. A pawnbroker operating under a license issued pursuant to this Part shall not be required to obtain an additional new or secondhand dealer's license or post additional bond but shall be subject to all other requirements of secondhand dealers as set forth in R.S. 37:1861 et seq.

C.(1) No license shall be granted to any person whose designated place of business is situated within three hundred feet or less of any official gaming establishment or designated docking facility of a riverboat licensed to conduct gaming activities or gaming operations pursuant to Chapter 4 or 5 of Title 27 of the Louisiana Revised Statutes of 1950. As to official gaming establishments, this distance shall be measured as a person walks using the sidewalk from the nearest point of the property line of the official gaming establishment to the nearest point of the designated place of business. As to docking facilities, this distance shall be measured in a straight line from the nearest point of the docking facility to the nearest point of the designated place of business.

(2) The subsequent construction, erection, development, or movement of an official gaming establishment or designated docking facility which causes a licensee's occupied designated place of business to be located within the prohibited distance shall not be cause for the revocation, withholding, denial, or nonrenewal of a license.

§ 1786. Application, fees, bond

A. An application for a new pawnshop license or the approval of a change in the ownership of an existing licensed pawnshop shall be made under oath and state the applicant's full name, the applicant's place of residence, the place where business is to be conducted, and other relevant information required by the commissioner. If the applicant is a juridical person, the application shall state the full name and address of each operator, partner, officer, and director of the juridical person and owner or beneficial owner of at least twenty-five percent of the juridical person.

B. If the applicant does not possess a pawnshop license the application shall be accompanied by a fee of one thousand dollars to be paid to the commissioner, seven hundred dollars of which shall be the license fee and three hundred dollars of which shall be an application fee. If the applicant possesses at least one valid unsuspended pawnshop license, and is applying for an additional license to operate at another location, the application shall be accompanied by a fee of five hundred dollars, four hundred dollars of which shall be the license fee and one hundred dollars of which shall be an application fee. Upon denying an application the commissioner shall immediately return to the applicant the license fee.

C. Every licensee, on or before September first of every year, shall pay to the commissioner three hundred dollars for each license as the annual fee for the succeeding year. If the annual fee is not received by the commissioner postmarked on or before September first, the licensee shall be assessed an additional one hundred fifty dollars as a late payment penalty. If the annual license fee and late payment penalty are not received by the commissioner postmarked on or before October first, the license shall expire.

D. When an application and the fees required by Subsection B of this Section are received, the commissioner shall investigate the facts as required by R.S. 37:1787. If the eligibility requirements for a license are satisfied, the commissioner shall approve an application and issue to the applicant a license that shall be evidence of authority to do business under the provisions of this Part. If the eligibility requirements for a license are not satisfied, or if for any other

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reason the license has not been issued, the commissioner shall notify the applicant who shall within sixty days of written request be entitled to a hearing on such application pursuant to the Administrative Procedure Act. All final decisions of the commissioner shall be subject to judicial review by the district court of East Baton Rouge Parish. The right to a hearing pursuant to this Subsection and judicial review thereof shall not limit the scope of judicial review or other means of review, redress, relief, or trial de novo otherwise provided to the parties by law.

E. Any applicant who owns a pawnshop that was licensed and doing business in this state for at least one year immediately prior to September 1, 1993 shall be entitled to receive one or more licenses by applying to the commissioner no later than September 1, 1993 and the payment of the fees required by Subsection B of this Section without the commissioner performing any further investigation of facts. When an applicant owns more than one pawnshop and at least one has been licensed and doing business for more than one year all of the applicant's pawnshops licensed and operating at the time of enacting this Part shall be eligible for a license pursuant to this Subsection.

§ 1787. Eligibility for license, net -assets or bond

A. To be eligible for a license an applicant shall meet all of the following:

- (1) Be over eighteen years of age and of good character and reputation.
- (2) Not have been convicted of a felony under the laws of the United States, the state of Louisiana, or any other state or country within the last ten years.
- (3) Show that the pawnshop shall meet all other requirements of law.
- (4) Have net assets of at least fifty thousand dollars that are used or readily available for use in the business or obtain and file with the commissioner a surety bond issued by a company licensed to do business in Louisiana in the amount of fifty thousand dollars.

B. An applicant whose license has been previously revoked shall also be subject to the provisions of R.S. 37:1806(F).

C. If the applicant for a pawnshop license is a juridical person the eligibility requirements of Paragraphs (1) and (2) of Subsection A shall apply to each operator, partner, officer, and director of the juridical person and owner or beneficial owner of at least twenty-five percent of the juridical person. The requirements of Paragraphs (3) and (4) of Subsection A shall apply to the juridical person as a whole.

D. Net assets may include capital investment unencumbered by a lien or other encumbrance and subject to a claim by a general creditor. If the commissioner is unable to verify through the presentation of a current balance sheet or a finding by an accountant, or an individual holding a permit to practice accounting in this state, that the pawnbroker meets the net assets requirement and through other means that the applicant for a pawnshop license meets and continues to meet the net assets requirement, then the commissioner may require the verification of the net assets requirement through an audited financial statement prepared by an independent certified public accountant authorized to practice in Louisiana by the State Board of Certified Public Accountants.

E. The requirements in Paragraph A(4) shall not apply to pawnshops legally operating before June 29, 1995. Effective July 1, 1997, the provisions of Paragraph A (4) shall apply to any person seeking a license.

F. A pawnbroker's license shall expire without a hearing sixty days after receipt of notice from the commissioner that he no longer meets the eligibility requirements of Paragraph A(4) of this Section, unless the pawnbroker requests an administrative hearing in writing within thirty days of receipt of the commissioner's notice. The commissioner shall promptly forward the request for hearing to the division of administrative law with a copy of the above notice to the pawnbroker. The administrative hearing shall be conducted within ninety days of the date the request for hearing is received by the division of administrative law, unless it is continued for good cause at the request of either party.

§ 1788. Change in ownership; change in name; change in location; ceasing to do business

A. Except as provided below, an application for a new license is required upon a twenty-five percent or more change in the ownership of any licensed pawnshop.

B.(1) In the event that a licensee, for whatever reason, wishes to change its legal entity, it shall notify the commissioner thirty days prior to such change and submit a fee of one hundred dollars. For the purposes of this Subsection, a natural person may transfer his license to a juridical person in which he owns at least seventy-five percent interest. A juridical person may transfer a license to another juridical person provided that seventy-five percent or more of the ownership in the transferee is the same as that of the transferor.

(2) In the event that a licensee wishes to change its name, trade name, or assumed name, and such change is not due to a change in ownership or legal entity, the licensee shall notify the commissioner in writing within thirty days of such change and submit a fee of fifty dollars. If the licensee fails to notify the commissioner or remit the required fee within the required thirty days, the commissioner may assess the licensee an amount not to exceed one hundred dollars as a penalty.

C.(1) Before a licensee changes the location of a pawnshop, the licensee shall provide thirty days' written notice of the same and pay a fee of one hundred dollars to the commissioner who shall then amend the license. The licensee shall also provide all persons who have things in pledge, at the address listed on the pawn ticket, with thirty days' written notice of the change in location.

(2) When a change of location is to occur, in lieu of the notices required in Paragraph (1) of this Subsection, a licensee may give notice by publishing such in a newspaper of general circulation in the locality in which the pawnshop is located and placing a notice in the pawnshop window thirty days prior to the change of location. The notice must be published each week for four weeks prior to the change of location.

D. Before a licensee ceases business, the licensee shall provide thirty days written notice of the same to the commissioner who shall then cancel the license. The licensee shall also provide all persons who have things in pledge, at the address listed on the pawn ticket, with thirty days written notice of the date business will cease. Ceasing business shall not impair or affect the obligation of either the pawnbroker or the pledgor to fulfill the terms of any preexisting contract between them.

§ 1789. Records from the Department of Public Safety and Corrections

The Department of Public Safety and Corrections on request shall supply to the commissioner any available arrest and conviction records of any person applying for or holding a license under this Part including the partners, officers, directors, and owners thereof.

§ 1790. Hours of pawnbrokers; days of operation

A. A pawnbroker shall neither open his place of business before the hour of 7:00 a.m. nor keep it open after the hour of 9:00 p.m., except in the month of December, during which time the hour of 9:00 p.m. shall be extended to 10:00 p.m.

B. No pawnbroker may keep his pawnshop open on Sunday except during the period beginning on the fourth Thursday of November and ending on January first.

§ 1791. Maximum rate of interest

Notwithstanding any other provisions of law to the contrary, a pawnbroker may charge a maximum rate of interest of ten percent per month on pawn transactions.

§ 1792. Pledgor's warranty; division of things

A pledgor warrants that the thing pledged is not stolen, that the pledgor has not received the thing by fraud, that the thing has no liens or encumbrances against it, that the pledgor is not in voluntary or involuntary bankruptcy and is not anticipating filing a bankruptcy proceeding of any type, and that the pledgor has the right to pawn the thing. A pawnbroker and a pledgor may agree to divide groups or sets of things pawned into separate pawn transactions.

§ 1793. Pawn ticket

A. A pawnbroker, at the time the pawn transaction is originally entered into, shall deliver to the pledgor a memorandum or ticket which shall clearly set forth all of the following and which shall be maintained as a record for the pawnbroker for a period of two years from the date of the transaction:

- (1) The pledgor's name and address.
- (2) The pledgor's date of birth.
- (3) The distinctive number from the pledgor's Louisiana driver's license, driver's license from another state, international driver's license, passport, military identification, or identification issued by a government agency or the United States Postal Service.
- (4) The date of the pawn transaction.
- (5) A clear and detailed description of the pledged things.
- (6) The amount of the cash advanced, designated as the "amount financed."
- (7) The maturity date of the pawn transaction.
- (8) The total of the interest and pawn service charges, designated as the "finance charge."
- (9) The total amount financed plus the finance charge which must be paid to redeem the pledged things on the maturity date, designated as the "total of payments."
- (10) The annual percentage rate.
- (11) A statement to the effect that the pledgor is not obligated to redeem the pledged things and that the pledged things shall be forfeited to the pawnbroker on the next business day after the maturity date. In the event the pawnshop is not open for business on the maturity date, then the forfeiture date shall be the day immediately following the next business day the pawnshop is open after the maturity date.
- (12) The name and address of the pawn shop.

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(13) A blank line for the pledgor's signature.

B. When a pledgor pays and a pawnbroker accepts all of the interest and service charges due on a pawn transaction, a new pawn transaction shall occur and a new maturity date shall be established. The new maturity date shall be extended beyond the original maturity date by a period equal to the number of monthly interest and service charge payments made. In such instances the pawnbroker may either provide the pledgor with a new pawn ticket or designate on the original pawn ticket the new maturity date.

§ 1794. Presentation of ticket, presumption

Except as otherwise provided in this Part, any person presenting a pawn ticket to the pawnbroker shall be presumed to be entitled to redeem the pledged things described therein.

§ 1795. Lost, destroyed, or stolen ticket

A. In the event a pawn ticket has been lost, destroyed, or stolen a pawnbroker shall either deliver the pledged things to the pledgor or issue the pledgor a new pawn ticket. But before doing either, the pawnbroker shall require the pledgor to make a written statement attesting to the loss, destruction, or theft of the ticket. The statement shall be signed by the pledgor and the pawnbroker or the pawnbroker's employee who accepts the statement from the pledgor. The statement shall contain the same information as the pawn ticket, the date the statement is given, and the number of the pawn ticket which was lost, destroyed, or stolen. When the pawnbroker has delivered the pledged things to the pledgor or issued the pledgor a new pawn ticket pursuant to this Section, then all prior tickets shall be null and the presumption of R.S. 37:1794 shall be inapplicable.

B. The pawnbroker may charge a fee not to exceed three dollars and fifty cents in connection with each lost, destroyed, or stolen pawn ticket and the taking of a written statement from the pledgor.

§ 1796. Records to be kept, entries required

A. Every pawnbroker shall maintain a permanent record of all transactions of things pledged on the pawnshop premises. This record, which may be maintained electronically, shall be kept for a period of two years. Entries shall be made in the English language and ~~all of the following shall be included:~~ include the personally identifiable information and the transactional information for each pawn transaction. Personally identifiable information and transactional information provided under the provisions of this Section shall in no event be made available to the public.

~~(1) The pledgor's name and address.~~

~~(2) The pledgor's sex, race, and approximate height.~~

~~(3) The pledgor's date of birth.~~

~~(4) The distinctive number from the pledgor's Louisiana driver's license, driver's license from another state, international driver's license, passport, military identification, or identification issued by a government agency or the United States Postal Service.~~

~~(5) A clear and accurate description of the pledged things, including model and serial numbers if indicated on the things.~~

~~(6) The date of the original pawn transaction.~~

~~(7) The maturity date of the original pawn transaction.~~

~~(8) The date and amount of each payment made on a pawn transaction, including any extensions made.~~

B. For complying with the provisions of this Section and Part the pawnbroker shall be entitled to the service charge set forth in R.S. 37:1799.

§ 1797. Records open to inspection

A. The commissioner, or his designee, may inspect all records of any person regulated by the provisions of this Part to ensure compliance with the provisions of this Part and any rules or regulations adopted under this Part.

B. The records maintained pursuant to R.S. 37:1796 shall at all times be open to the inspection of the appropriate law enforcement officer.

§ 1798. Information furnished to police or sheriff

~~A. Every pawnbroker shall provide to the chief of police of the city or town in which he is doing business or alternatively to the sheriff of the parish in which he is doing business, on a daily basis, by the end of the next business day, or on such less frequent basis as required by the chief of police or sheriff, by placing in the United States mail either in printed form or in such other form acceptable to the chief of police or sheriff, that information obtained pursuant to R.S. 37:1796.~~

A.(1) Every pawnbroker shall provide all transactional information obtained pursuant to R.S. 37:1796 to the chief of police of the city or town in which he is doing business or to the sheriff of the parish in which he is doing business, on a daily basis by the end of the next business day or on such less frequent basis as is required by the chief of police or sheriff. The

means for providing the transactional information required under this Section shall be selected by the chief of police or sheriff and shall be one of the following:

- (a) By electronic transmission if the pawnbroker has the means available to make transmissions in electronic form.
- (b) By placing in the United States mail.
- (c) By sending a facsimile.

(2) In the event transactional information is transmitted electronically pursuant to Subparagraph (A)(1)(a) of this Section, the appropriate law enforcement official may, for purposes of an investigation of a crime relating to a particular pawn transaction, request the pawnbroker to mail or fax such official the personally identifiable information relating to such transaction under investigation. The pawnbroker shall deliver the personally identifiable information relating to the identified transaction to the appropriate law enforcement official within twenty-four hours of the request. In the event the pawnbroker transfers information in printed form pursuant to Subparagraph (A)(1)(b) or (c) of this Section, the pawnbroker shall not also be required to transmit such information in electronic form pursuant to Subparagraph (A)(1)(a) of this Section.

B. The pawnbroker shall have the responsibility of tendering the information provided for in Subsection (A) of this Section regardless of its use or nonuse by the chief of police in the city or town in which he is doing business or, alternatively, to the sheriff of the parish in which he is doing business. The tender of this information is a courtesy mandated by state law and which provides a benefit to the general public. The chief of police or sheriff shall not be mandated to take any particular action concerning the information tendered.

C. For complying with the provisions of this Section and Part the pawnbroker shall be entitled to the service charge set forth in R.S. 37:1799. No further fees, charges, or taxes may be enacted by the state or local government related to the use of the information provided to local law enforcement.

§ 1799. Service charge

A. In addition to interest, a pawnbroker may charge a maximum of ten percent of the loan amount as a service charge each month of a pawn transaction.

B. The service charge permitted in this Part shall be in lieu of all other charges allowable to other classes of lenders, including, but not limited to, origination fees, storage fees, documentation fees, over the credit limit fees, and other such charges. The service charge shall reimburse the pawnbroker for the cost of complying with the provisions of this Part, including, but not limited to, reporting requirements, storage requirements, maintaining insurance, and, in certain instances, indemnification. In no event shall the service charge be prorated. The right to collect the fee for reissuing a lost pawn ticket as set forth in R.S. 37:1795(B) shall be in addition to such service charges.

C. The failure of a pawnbroker to meet any requirements of this Part shall make pawnbrokers responsible for the penalties set forth herein but shall not defer, terminate, or in any way limit the right to collect a service charge.

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§ 1800. Maturity dates; sale of things

A. The maturity date for any thing pledged to a pawnbroker shall be no less than three months from the pawn transaction date.

B. No pawnbroker shall sell any thing pledged to him as security for a loan before the next business day following the maturity date. In the event the pawnshop is not open for business on the maturity date, then the forfeiture date shall be the day immediately following the next business day the pawnshop is open after the maturity date.

C. Without the necessity of default, ownership of any thing not redeemed by the pledgor on or before the maturity date shall be forfeited to the pawnbroker and absolute right, title, and interest in and to the thing shall immediately vest in the pawnbroker. The pawnbroker shall in no instance be obligated to notify any pledgor or any of the pledgor's creditors of the time, place, manner of sale, or disposition of forfeited things. No further accounting by the pawnbroker to the pledgor shall be required.

§ 1801. Condition for sale of used motor vehicles; "title only" pawn transactions prohibited

A. Notwithstanding any other provisions of the law to the contrary, except where a pawnbroker possesses a valid used motor vehicle dealer's license issued pursuant to R.S. 32:771 et seq., he shall not sell a used motor vehicle which he possesses or which he displays for sale except to one of the following:

- (1) A used motor vehicle dealer.
- (2) A purchaser through a regular used motor vehicle auction.
- (3) A purchaser through a used motor vehicle dealer.

B. The terms "used motor vehicle" and "used motor vehicle dealer" as used in this Section shall have the meaning ascribed in R.S. 32:771.

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C. Repealed by Acts 1995, No. 758, §2. eff. June 27, 1995.

D. Under no circumstances shall the practice commonly referred to as motor vehicle "title only" pawn transactions be allowed in this state. Every motor vehicle subject to a pawn transaction shall be stored at the business location at which the transaction occurred or at any other location in this state secured or maintained by the pawnbroker.

§ 1802. Minors pledging things

No natural person under the age of eighteen years shall deposit in pledge with a pawnbroker any thing of value for money loaned.

§ 1803. Pledgor's liability prohibited

A pledgor shall have no obligation to redeem pledged things or make any payment on any pawn transaction.

§ 1804. Prohibited practices

A pawnbroker shall not:

- (1) Accept a pledge from any natural person under the age of eighteen.
- (2) Make any agreement requiring the personal liability of the pledgor in connection with a pawn transaction.
- (3) Accept any waiver, in writing or otherwise, of any right or protection accorded a pledgor under the provisions of this Part.
- (4) Knowingly accept a stolen thing into pawn.
- (5) Rent or lease a pawned thing to any person before the next business day following the maturity date.
- (6) Fail to exercise reasonable care to protect pledged things from loss or damage.
- (7) Enter into any pawn transaction which has a maturity date of less than that which is permitted in R.S. 37:1800.
- (8) Falsify, obliterate, destroy, or remove from the place of business records, books, or accounts relating to the pawnbroker's pawn transactions before the expiration of two years.
- (9) Fail to return the pledged things or replace lost pledged things to a pledgor upon payment of the full amount due the pawnbroker, unless the pledged things have been taken into custody by a court or law enforcement officer. For the purposes of this Paragraph only, the term "lost pledged things" means pledged things that have disappeared, been destroyed, or were stolen while in the care, custody, and control of the pawnbroker and which results in the pledged things being unavailable for return to the pledgor. The pawnbroker's liability to the pledgor for lost pledged things shall be limited to the replacement of or the replacement value of the lost pledged thing.
- (10) Violate any federal, state, or local law, ordinance, regulation, or guideline.

§ 1805. Stolen things

A. For the purposes of this Part, a thing is stolen when one has taken possession of it without the consent of its owner. A thing is not stolen when:

- (1) The owner delivers it or transfers its possession or ownership to another as a result of fraud.
- (2) The owner delivers it or transfers its possession or ownership to another as a result of an agreement for the use of the thing by a natural person primarily for personal, family, or household purposes for a period of time which may or may not be automatically renewed with each payment made thereafter.
- (3) The owner delivers it or transfers its possession or ownership to another via lease of movables, a finance lease, a true lease, a conditional sale, a credit sale, a loan, or a gift.

B. When a pawnbroker acquires a thing which has been deemed stolen pursuant to Subsection C, the pawnbroker shall return the thing to the owner at no cost.

C.(1) When ownership of a thing is disputed, final determination as to ownership for the purposes of this Part shall be made in either a civil or criminal proceeding filed in a Louisiana court of competent jurisdiction.

(2) When the party claiming ownership of a thing either refuses to initiate or cooperate in the criminal proceeding against the alleged perpetrator the thing shall be deemed not to have been stolen for the purposes of this Part.

(3) When the perpetrator cannot be located, or a criminal prosecution is not initiated for any reason other than the refusal of the purported owner to initiate or cooperate in the criminal proceeding, ownership of the thing may be determined in a civil proceeding. In such instances, the thing shall either be returned to the owner pursuant to Subsection B, or remain the property of the pawnbroker.

D. When the ownership of a thing is disputed and a criminal proceeding is initiated and continued, possession of the thing shall be tendered to the appropriate law enforcement or judicial authority until ownership is determined. Upon delivery of the thing to the appropriate law enforcement or judicial authority, the pawnbroker shall be given a receipt indicating the date of delivery, a description of the thing delivered, a docket or other relevant number, the style of the case, and the name of the

person to whom delivery was made. Upon delivery of the thing, the appropriate law enforcement or judicial authority shall also initiate an offense report on the pawnbroker's behalf as a victim of theft by fraud.

E. When the ownership of a thing is disputed in a civil proceeding, the thing shall be retained by the pawnbroker. Alternatively, the alleged owner may have the thing placed in the control of the appropriate judicial authority and post security in an amount equal to one and one half times the value of the thing, and all accrued interest, service charges, and one year's future interest. Upon a determination of ownership in favor of a person other than the pawnbroker, the thing shall be returned pursuant to Subsection B. Upon a determination in favor of the pawnbroker, the thing shall be returned to the pawnbroker and the pawnbroker shall be entitled to damages including interest and service charges calculated at the rates set forth in the pawn ticket whereby the disputed item was pawned.

F. When a thing is deemed stolen pursuant to this Section, the pawnbroker shall have a right of action against the pledgor for damages, including reasonable attorney's fees.

G. When a pawnbroker acquires a thing the possession or ownership of which was obtained by a pledgor through fraudulent means, the pawnbroker shall be obligated to return the thing to the owner for the same amount that the pledgor would have been able to redeem such thing.

H. When a person alleges that he has been deprived of a thing by the pledgor through fraudulent means, he may proceed civilly via summary process to restrain the release of the pledged thing to the pledgor and via ordinary process to determine possession of the pledged thing.

I. In no instance in which the pawnbroker relinquishes possession of a thing to any law enforcement or judicial officer or to any person pursuant to Subsection B or H shall he be liable in any manner whatsoever to the pledgor or any other person, including the owner.

§ 1806. Inspection; license; reprimand, suspension, revocation, surrender

A. The commissioner may, upon written notice, reprimand the licensee or suspend, or revoke any license. The notice required by this Subsection shall state the contemplated action, and the grounds therefore and shall be forwarded by registered United States mail directed to the licensee at the address set forth on the license or at such other address as the licensee may designate in writing to the commissioner.

B. Except as provided in Subsection A of this Section, prior to the commissioner's taking any action pursuant to this Section the licensee shall be provided a reasonable opportunity to be heard in a proceeding conducted in accordance with the Administrative Procedure Act. The commissioner shall provide written notice by certified or registered mail to the licensee of any intent on the part of the commissioner to take any action pursuant to this Section. The licensee shall, within fifteen days of receipt of such written notice, file with the commissioner a request for a hearing. If no such request is filed within the stated fifteen day period, the commissioner may take immediate action pursuant to this Section without further notice. Such hearings may be private if the commissioner, in his sole discretion, so determines, after considering the interests of the person afforded the hearing and the need to protect the public interest. If a public hearing is held and any confidential records of the office of financial institutions are produced by discovery or introduced into evidence at the hearing, such records shall not become public, and may be disseminated to third parties only upon compliance with the provisions of R. S. 9:3518.1. The provisions of R.S. 9:3518.1 shall also apply to any request by a third party for any record in the custody or control of the office of financial institutions relating to the supervision and regulation of any entity licensed by the office of financial institutions pursuant to this Part. At his discretion, the commissioner may designate any natural person or body of persons to conduct hearings or perform any duties required by this Section and Part on his behalf.

C. After investigation, the commissioner shall take one of the following actions:

- (1) Dismiss the complaint or action against the licensee and so notify the licensee in writing.
- (2) Issue a private reprimand as specified by rule.
- (3) Issue a public reprimand as specified by rule.
- (4) Enter into voluntary consent or compliance agreement.
- (5) Suspend the license as set forth in Subsection D.
- (6) Revoke the license as set forth in Subsection E.

D. If the commissioner finds that the extent of the violation mandates a greater penalty than a reprimand and a less severe penalty than revocation of a license, he may suspend the license for no more than one hundred eighty days.

E. If the commissioner finds that one or more of the following exists he may revoke the license:

- (1) The licensee has willfully violated any provision of this Part, or any rule, regulation, or direction lawfully made by the commissioner under and within the authority of this Part.
- (2) Any fact or condition exists which, if it had existed at the time of the original application for a license, would have warranted the commissioner in refusing its issuance.
- (3) Any applicant has made any material misrepresentation to the commissioner in applying for a license which would have justified the commissioner in refusing the license.

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscoring are additions.

(4) The licensee has conspired with a person to circumvent or violate the requirements of this Part.

F. In those instances where a license is revoked, the commissioner may issue a new license to a person if no fact or condition then exists which would have justified the commissioner's refusing originally to issue a license and the commissioner is convinced that the applicant will operate the pawnshop in conformity with the provisions of this Part.

G. Any licensee may surrender a license by delivering it to the commissioner with written notice of its surrender. This surrender shall not affect the civil or criminal liability of the licensee for violations committed prior to surrendering the license.

H. No suspension, revocation, or surrender of a license shall impair or affect the obligation of any preexisting lawful contract between the licensee and any pledgor. Any pawn transaction made without benefit of a license is void.

§ 1806.1. Guidance by commissioner; advisory opinions

A. The commissioner may issue advisory opinions and guidelines clarifying the rights and responsibilities of all persons, public or private, pursuant to this Part.

B. Advisory opinions and interpretations of the office shall not be considered rules requiring compliance with the rulemaking process under the Louisiana Administrative Procedure Act.

C. This Section shall only have prospective application.

§ 1807. Injunctions; cease and desist orders; penalties

A. When the commissioner has reasonable cause to believe that a person has engaged in or is engaging in any act or practice violative of this Part, the commissioner, in addition to and without prejudice to the authority provided elsewhere in this Part, may issue orders to cease and desist and take corrective action, assess civil money penalties, and bring a suit in a court of competent jurisdiction and venue to restrain and enjoin the person from engaging in future violations of this Part or from engaging in other conduct in violation of law. The commissioner shall have the power to promulgate rules and regulations for the enforcement of but not inconsistent with this Part.

B. The commissioner may, through the attorney general of the state of Louisiana, or the district attorney of any parish in the state of Louisiana, apply for an injunction in any court of competent jurisdiction to enjoin any unlicensed person from engaging in business as a pawnbroker, and any such court may issue temporary restraining orders or preliminary or permanent injunctions without bond as the circumstances shall require.

§ 1808. Acting as pawnbroker without complying with law; violations by pawnbroker; penalties

A. Any person who engages in the business of operating a pawnshop or who advertises in any media or by any means that he is a pawnbroker without first securing the license prescribed by this Part shall be punished by a fine up to five thousand dollars by the commissioner or imprisoned for not more than one year, or both.

B. In addition to any other penalty which may be applicable, any licensee who willfully violates the provisions of this Part or who willfully makes a false entry in any records required by this Part shall be fined up to one thousand dollars per violation or false entry.

§ 1809. Repealed by Acts 1995, No. 1201, § 6

DISCLAIMER

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